

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3416**, from R-4 Residential to R-2 Residential, requested by the Witherbee Neighborhood Association, covering approximately 12 blocks generally located between the west side of South 37th Street and the east side of South 42nd Street, from "J" Street to Randolph Street.

STAFF RECOMMENDATION: Denial.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/20/03
Administrative Action: 08/20/03 and 09/03/03

RECOMMENDATION: Denial, with a request that the City Council place on pending for three months and direct the Planning Director to conduct a study of zoning options (5-2: Bills-Strand, Krieser, Duvall, Marvin and Steward voting 'yes'; Carlson and Taylor voting 'no').

FINDINGS OF FACT:

1. This is a request by the neighborhood association to change the zoning for approximately 12 blocks from R-4 Residential to R-2 Residential.
2. The staff recommendation to deny this change of zone request is based upon the "Analysis" as set forth on p.5-9, concluding that this neighborhood is lower in density than other established neighborhoods that have been "downzoned" in recent years. It appears that some dwellings could be added to this area, hopefully in a more sensitive manner than the current example being considered for one of these blocks (*Special Permit No. 2019 and Special Permit No. 2020, Randolph Square Community Unit Plan and Day Care Center, recommended for denial by the Planning Commission on 8/20/03*), that would not disrupt the stability or overload the carrying capacity of the neighborhood. Denial of this change of zone would preserve the potential for additional density within the area, and provide additional housing opportunities, as recommended in the Comprehensive Plan. Staff should work with all the various stakeholders on this issue of infill and density in established neighborhoods toward developing new regulations that fall somewhere between those in the existing R-2 and R-4 districts to balance the goals of stability and efficiency.
3. Testimony in support is found on p.10-11. The record consists of petitions signed by 130 property owners within the boundaries of this change of zone request in support (p.26-45); letters from the East Campus Community Organization and the Everett Neighborhood Association in support (p.47-48); and 10 letters from property owners in the neighborhood in support (p.46 and 49-60).
4. The testimony of the Director of Planning is found on p.11, indicating that he plans to initiate discussions about some zoning options to accommodate some infill with more flexibility than what R-2 permits today.
5. There was no testimony in opposition.
6. On 8/20/03, a motion to recommend denial was amended to a motion to place on pending and passed 6-3 (Krieser, Larson, Duvall, Bills-Strand, Steward and Schwinn voting 'yes'; Carlson, Taylor and Marvin voting 'no'). See Minutes, p.12-13.
7. On 08/27/03, Rick Peo of the City Law Department, issued a memorandum to the Planning Commission, indicating that the Planning Commission does not have the authority to place an application for change of zone on pending for an indefinite period of time without the applicant's consent (p.24-25).
8. On 09/03/03, in response to the communication from the City Attorney's office, the Planning Commission voted to waive rules, remove from pending and reconsider their previous action. A motion to recommend approval failed 3-4 (Carlson, Marvin and Taylor voting 'yes'; Bills-Strand, Duvall, Krieser and Steward voting 'no'). The Planning Commission then voted 5-2 to recommend denial, with a request that the City Council place this application on pending for three months and direct the Planning Director to conduct a study of zoning options (Bills-Strand, Krieser, Duvall, Marvin and Steward voting 'yes'; Carlson and Taylor voting 'no'). Commissioner Marvin stated that he changed his vote to move this application forward to the City Council. (See Minutes p.13-17).

(Editorial Note: The Randolph Square Community Unit Plan (Special Permit No. 2020) at 40th & Randolph Street was recommended for denial on August 20, 2003, and the associated Special Permit No. 2019 for a day care center was denied on August 20, 2003. The applicant has perfected an appeal of the day care center to the City Council and has requested that both the community unit plan and day care center not be scheduled on the City Council agenda pending further discussions with the neighborhood.)

FACTSHEET PREPARED BY: Jean L. Walker
REVIEWED BY: _____
REFERENCE NUMBER: FS\CC\2003\CZ.3416

DATE: September 8, 2003
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LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 20, 2003 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone 3416

PROPOSAL: To change the zoning on approximately 12 blocks within the Witherbee Neighborhood from R-4 Residential to R-2 Residential.

LOCATION: Generally located between the west side of South 37th Street and the east side of South 42nd Street, from "J" Street to Randolph Street.

LAND AREA: 34.85 acres, more or less.

CONCLUSION: This neighborhood is lower in density than other established neighborhoods that have been "downzoned" in recent years. It appears that some dwellings could be added to this area, hopefully in a more sensitive manner than the current example being considered for one of these blocks, that would not disrupt the stability or overload the carrying capacity of the neighborhood. Denial of this change of zone would preserve the potential for additional density within the area, and provide additional housing opportunities, as recommended in the Comprehensive Plan. Staff should work with all the various stakeholders on this issue of infill and density in established neighborhoods toward developing new regulations that fall somewhere between those in the existing R-2 and R-4 districts to balance the goals of stability and efficiency.

RECOMMENDATION:

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION:

The following additions and parts of additions:

Buckey's Subdivision, Lots 1-12,

Cornells Subdivision Lots 1-12,

Meeks 1st Addition, Lots 1-4, and

Irregular Tracts 67, 71, 72, 73, 75, 76, 221-226,

all located in the NW 1/4 of Section 29-10-7, Lancaster County, Nebraska, and

Rex Subdivision, Lots 1-5,

Doane Acres, Lots 2-10,

Frost's Subdivision, Lot 22,

Bannister Subdivision, Lots 1-12,

Sutton's Subdivision, Lots 1-6 and the vacated north-south alley adjacent thereto,

Riley and Whitney's Subdivision, Lots 2 and 4, and the vacated north-south public right-of-way adjacent to lot 4,

Giestlinger's Subdivision, Lots 1-5, and

Lyman Park Subdivision, Lots 1-12,
all located in the NE 1/4 of Section 30-10-7, Lancaster County, Nebraska

EXISTING ZONING: R-4 Residential

EXISTING LAND USE: Single- and Two-Family dwellings

SURROUNDING LAND USE AND ZONING:

North:	Residential uses	R-4 Residential
South:	Residential uses	R-4 Residential
	Commercial uses	B-1 Local Business
East:	Residential uses	R-4 Residential
West:	Residential uses	R-4 Residential

HISTORY: Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling. As a result of the update, the zoning changed to R-4 Residential, which substantially reflects the B Two-Family District.

HISTORY OF OTHER RESIDENTIAL DOWNZONING

Aug 2003	Change of Zone #3412 from R-4 Residential to R-2 Residential received a recommendation of Approval from the Planning Commission. This is for an area within the Antelope Park Neighborhood. The Planning Department recommended approval as well.
Apr 2003	Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South Neighborhood. The Planning Department recommended approval.
Oct 2002	Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood landmark district. The Planning Department referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods.
Feb 2002	Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for the area located immediately adjacent and southeast of this application. The area included approximately 106 dwelling units. The Planning Department recommended denial because the change would cause 35% of the lots to become nonstandard and the R-4 district allows a diversity of housing types.
Jun 1995	Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area located immediately adjacent and west of this application. The area included 23 dwelling units (21 single-family and 2 duplex units). The Planning Department recommended denial because the change would result in 57% of the lots becoming nonstandard

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan shows the area as Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)

COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The **Overall Guiding Principles** for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The **Guiding Principles for Existing Neighborhoods** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

Strategies for Existing Residential Areas

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (F 73)

COMP PLAN SPECIFICATIONS THAT DO NOT SUPPORT THIS CHANGE OF ZONE:

The **Guiding Principles for the Urban Environment: Overall Form** include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

Strategies for New Residential Areas

Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure. (F 72)

COMP PLAN SPECIFICATIONS THAT ARE NEUTRAL TO THIS CHANGE OF ZONE:

One **Quality of Life Asset** from the **Guiding Principles from the Comprehensive Plan Vision** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

The ***Guiding Principles for the Urban Environment: Residential Neighborhoods*** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (F 73)

AESTHETIC CONSIDERATIONS:

Many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. The streetscapes appear consistent with older single-family areas; there is a rhythm to the size and shape of houses, there is some, but not a significant amount of parking on the streets, and many homes are still single-family.

ANALYSIS:

1. This is a request by the Witherbee Neighborhood Association to change the zoning for approximately 12 blocks within the Witherbee Neighborhood from R-4 Residential to R-2 Residential. The Applicant has stated the goal of the Association is to return in the future with an application to downzone the entirety of their association boundaries, from 33rd to 56th Streets, and “O” to Randolph Streets. The reason for the downzoning of the area is to limit future two-family dwellings by increasing the minimum lot size for such uses, as well as prohibit high density community unit plans from being approved within the area.

2. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.

1. Safety from fire, flood and other dangers.

No apparent impact.

2. Promotion of the public health, safety, and general welfare.

This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. However, there are also several Comprehensive Plan policies and strategies that would suggest this downzoning is not appropriate.

3. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.

The housing within this proposed change of zone is primarily single-family, with some two-family units. The majority of the approximately 133 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. It appears as though there are also 8 two-family homes. Some of these have been converted from single-family dwellings, while others may have been constructed for their current use.

4. Conservation of property values.

It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot coverage requirements. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values.

5. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Comp Plan identifies Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. This area has developed over time as a predominantly single-family neighborhood, and it has only a small number of two-family dwellings distributed throughout. This neighborhood could likely use its existing infrastructure more efficiently with additional two-family dwellings. This area has not reached the density of the kind of mix of single- and two-family uses that is seen in other neighborhoods that have been downzoned in recent years.

3. There are several differences between R-2 and R-4 zoning requirements. The following table shows the requirements of each district.

	R-2	R-4
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.
Lot area, two family	10,000 sq. ft. (5,000 per family)	5,000 sq. ft. (2,500 per family)
Avg. lot width, single family	50 feet	50 feet
Avg. lot width, two family	80 feet (40 per family)	50 feet (25 per family)
Front yard	25 feet	25 feet
Side yard, single family	5 feet	5 feet
Side yard, two family	10 feet (0 feet at common wall)	5 feet (0 feet at common wall)
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

4. The Permitted Uses in the R-4 and R-2 districts are nearly identical. The only two differences among Conditional Uses between these districts are the requirement that group homes be separated by 1,200 feet in R-4 and by one-half mile in R-2, and that the density of residents within a domestic shelter within the R-4 district is one per 1,000 square feet, while the R-2 district allows 1 per 2,000 square feet. The only difference among Special Uses is that garden centers are allowed in R-2 but not in R-4.
5. Pursuant to LMC §27.03.460, nonstandard lots are defined as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
6. Under the current zoning designation, there are 4 single-family and 2 two-family dwellings that are nonstandard. If the zoning is changed to R-2, there will be 7 single-family and 5 two-family dwellings that are nonstandard. All of these lots are nonstandard based upon lot area only.
7. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or may otherwise be made "if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space..."

8. Therefore, any residential use within this area, whether single- or two-family, that is a nonstandard use, may be altered or rebuilt provided it meets setbacks, height, and open space requirements. This may result in a slightly different building footprint for a two-family dwelling, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.
9. In the case of a nonstandard use that wants to extend into one of the required yards, a special permit is available. This is a less difficult hurdle than a standard use faces in obtaining a variance from the Board of Zoning Appeals in order to occupy a required yard.
10. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Unit type	Current R-4	Proposed R-2	Total units
Single-family	4 nonstd.	7 nonstd.	125
Two-family	2 nonstd	5 nonstd	<u>8</u>
			133

11. This area is not adjacent to any existing R-2 Residential districts. The distance to an R-2 district varies from approximately 2-1/2 blocks to the south, to approximately 16 blocks to the west. This area represents the outer edge of what could be considered a transition from more dense residential areas located towards Downtown, and less dense residential areas located towards the city's edge.
12. This area appears to be fully built. There appears to be no vacant lots available. However, there are a number of large lots within the area, some of which could be combined to produce an area large enough for a multiple-family development. Therefore, the primary opportunities for additional two- or multiple-family dwellings are to convert existing single-family dwellings or accumulate enough property to propose a community unit plan.
13. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. By retaining the R-4 Residential zoning district at this location, a greater number of housing units may be supplied through infill development and reuse of existing structures.

However, the Comp Plan also stresses that “preservation of [single-family] homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership,” and that “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

14. The Planning Department has used the terms “tipping point” and “carrying capacity” in recent discussions involving downzoning, although these terms are not explicitly defined. These terms are used to identify the concept that there is a point at which a neighborhood will have a certain mix of single-, two-, and even multiple-family dwellings that works well for the existing infrastructure and for encouraging reinvestment. The occurrence of this point will depend on infrastructure factors such as water and sewer capacities, traffic capacities, and availability of off-street parking, as well as character and compatibility with the surrounding neighborhood, and a recognition of the historic development pattern and the expectations of current residents.

Each neighborhood not only has its own tipping point, but that point may change as the contributing factors change.

15. The Planning Department recommends this neighborhood has not reached a point that can be characterized as an ideal balance between single- and two-family residences. The existing density of this area is 3.8 units per acre. This compares to densities of 4.9 to 6.5 units per acre in the neighborhoods where R-2 zoning was recently approved.
16. The R-4 district requires all new construction to meet the City of Lincoln Design Standards, Chapter 3.75 Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards do not apply to the R-2 district. There does exist a possibility for new construction that would come under the review of these regulations, such as the Randolph Square CUP and daycare proposals. The Neighborhood Design Standards should be reviewed, clarified, and, staff believes, strengthened. However, these standards offer a level of protection to this neighborhood that would be lost if this application is approved.
17. At the time of this report, the Applicant has stated that 98 property owners out of a potential 133 within this area have signed a petition in support of this change. The Applicant has stated that all of the property owners have been contacted for their opinion, and more letters of support may yet be submitted. No property owners have indicated they are in opposition or indifferent to this change. This calculates to a 100% rate of support of those that responded, and a 74% rate of support of all property owners. A copy of one page of the submitted petition is attached as an example. The remaining pages of the petition are part of the file, and may be viewed at the Planning Department
18. Given the number of recent, pending, and potential requests to downzone established neighborhoods within the core of the city, the Planning Department recommends that policies and strategies to address and improve the common issues of the applicants be analyzed. The Planning Department would like to consider options to R-2 zoning that might better balance the competing goals of preservation and efficiency in the Comprehensive Plan. These might include a change to the existing R-4 district standards, a change to the R-4 CUP provisions, a new zoning district, and/or a change to the neighborhood Design Standards.
19. Should the Planning Commission desire to recommend other than Denial, this application should be placed on Pending until such time as the City can develop a set of policies and a process to review and make recommendations on this type of application. However, with current workload demands, the Planning Department is not able to begin looking at this issue in the near future.

Prepared by:

Greg Czaplewski
Planner

Date: July 16, 2003

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CHANGE OF ZONE NO. 3416

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 20, 2003

Members present: Krieser, Larson, Duvall, Carlson, Bills-Strand, Taylor, Marvin, Steward and Schwinn.

Staff recommendation: Denial.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted two items of additional information, including an email and a letter from the Everett Neighborhood Association in support.

Proponents

1. Kevin Ward, 3754 H Street, presented the application on behalf of the Witherbee Neighborhood Association and expressed appreciation to the Commissioners for their support in the Landon's Neighborhood and Antelope Park Neighborhood petitions to seek downzoning in their neighborhoods. There are 133 homes included in this change of zone request, generally from 37th to 42nd, Randolph to "J". Out of those 133 homes, the Association was able to gather 103 signatures in support of this application, equating to 77%. But the real point is that 100% of the people that were contacted were in support. This support included people who live on non-standard lots and people who rent. The Comprehensive Plan endorses neighborhoods as one of Lincoln's greatest strengths. Witherbee plans to ultimately seek a rezone for the entire neighborhood from 33rd to 56th, Randolph to "O" Street.

Ward believes there to be an error in the staff report on p.7, Analysis #11, where it states that this area is not adjacent to any existing R-2, noting that R-2 zoning starts at 48th Street, which is six blocks to the east. Ward suggested that R-2 will essentially solve the density, traffic and safety concerns. Given the character of the Witherbee neighborhood, the neighbors do not believe this area was meant to accommodate multi-family units and the effect it will have on their health, safety and welfare. Ward urged that this change of zone be granted to protect the future of this neighborhood.

2. Ed Hoffman, 3845 Randolph, testified in support and showed photographs depicting the unique character of this neighborhood. There are many, many beautiful trees within the neighborhood and they need to be preserved. The architecture is unique. The concerns are the same as the Antelope Park Neighborhood Association downzone. This is a very desirable, unique location. The homes sell almost immediately.

3. Tanja Buchholz, 4110 Randolph, owns two properties in the area and testified in support. There is a good mix of single family, duplex, triplex, commercial properties as well as churches. This is a beautiful low density neighborhood and the density is lower than other neighborhoods because of the large lots. There are also many large properties close by the proposed rezoning. All of these large properties have single family homes on them. This is how the neighborhood was laid out in the 1930's and the property owners would like to preserve it. Areas with large lots such as Sheridan and Piedmont are zoned R-2. Newer neighborhoods such as Highlands and South Pointe are being zoned R-3, allowing them to be closer to the street with bigger back yards. As R-3 they will never see the slip-

ins. Newer development needs to be more dense and is better able to plan for traffic. This change of zone is long overdue to maintain this standard and prevent massive apartment buildings.

4. Carol Brown, 2201 Elba Circle, testified in support. What a beautiful neighborhood and what an asset to our community. We need to continue the R-2 zoning for this neighborhood and continue building out what started 60 years ago. It does not have the infrastructure to stick in the R-4 or R-3 zoning.

5. John Olson, 3750 Randolph, testified in support. His property sits on three lots. He has been approached for infill housing to be put on either side of the house. He does not think it is compatible to any of the insert development that you see.

6. Fred Freytag, 530 So. 38th, testified in support. He believes this will help keep the neighborhood as owner-occupied single family homes and owner-occupied duplexes. The R-2 zoning will help preserve the neighborhood.

There was no testimony in opposition.

Staff questions

Schwinn asked the Planning Director whether there is a plan concerning these neighborhood downzones. Marvin Krout stated that the Comprehensive Plan does say that we should grow more compact as we grow in a stable manner, and those are conflicting goals. There is no easy solution to this, but he thinks the Commission has already touched on some of the issues that design has something to do with. Our neighborhood design standards don't fit the situation. Three Pines certainly wouldn't meet what you would come up with immediately as the design standard for this neighborhood, yet it is a good contributing asset to this neighborhood. The other compensating factors with Three Pines have to do with the design and the layout. We don't know the answer. We don't know whether the answer might be modified R-2, modified R-3 or modified R-4, or some kind of overlap on top of existing zoning. We just don't think that the answer is R-2 zoning to freeze a neighborhood to prevent some infill development. Almost half of the area you are looking at today is an area that obviously can accommodate some infill with more flexibility than R-2 permits today. But, it has to be done carefully. We don't have any answers. We are going to invite people on both sides of this issue to come to the table. If you approve R-2 today, you heard that their ultimate goal is to downzone everything from 33rd to 56th to R-2, and you have support from other neighborhoods that probably want to come in and do the same. It might end up being just as efficient to try to come up with a scheme that will answer most of the problems.

Taylor wondered what to do in the meantime. Krout believes that the Commission has already sent a signal to people who want to do development in this neighborhood that what came forward wasn't good enough, and any community unit plan that wants to get above a single family or duplex is going to have to come through a public hearing process, so the neighborhood has that protection. We don't want to put you and the neighborhood through that process over and over again. This

neighborhood has done very well with its R-4 zoning for many years. Krout does not think we should rush to make a change that might not be the best change in the long run.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 20, 2003

Schwinn moved to deny, seconded by Larson.

Schwinn is the only one who voted against the last one of these, but he believes that there is a need to put an end to this to move forward with what the Planning Director wants to do. The Witherbee neighborhood has done very well for the last 50 years with R-4 zoning with no trouble. He sees no rush to change the texture and any community unit plan would have to come through this body. The unintended consequences of this is that if Randolph Square comes forward with something more upscale and brings up the property values in the neighborhood, that has positives and negatives. This change of zone will increase values and eliminate families from being able to buy in that neighborhood. Nationwide, raising the price of a house \$1,000 takes 80,000 families out of the housing market. He would like to end this rush to R-2 zoning right now. Schwinn stated that he is willing to serve on a committee to help figure this out.

Taylor will vote against the denial simply because there have been neighborhoods in the past that have to watch out for their own future and he really applauds them for standing up. Sometimes our Planning Department and other resources in the city have to respond to the common good and people coming down and voicing their concerns. They have been very articulate and very reasonable. Taylor wants to start responding to that right now. By taking this step, it will cause the Planning Department to immediately become more creative and to think in terms of making solutions and making changes. This shows that the neighbors are willing to pay more taxes to get their neighborhood back.

Bills-Strand would like to put this on pending to give notice that the Commission is open to modification and to protect the neighborhoods without having to force every neighborhood to come forward and ask for a change of zone.

Bills-Strand moved to amend to place on pending, seconded by Duvall.

Carlson stated that he will vote against putting this on pending and against denial because he thinks it should be approved. There is overwhelming support for this, they've done the leg work, they've sat down here for five hours and we have evidence that there is overwhelming support. He is not sure we want to put an end to people making their democratic prerogative. He does not think it will deny the superior project coming forward. This is a good trend across the city because it puts the burden of proof on the person requesting the change. We do upzones all the time. They can come back with a superior project and request the change of zone back to R-4.

Taylor is against putting this on pending. He does not think that what is done today is going to negatively affect the future of our city but will definitely affect the future of this neighborhood.

Marvin does not think the change is going to jeopardize the three-acre parcel. It may protect some of the smaller acre parcels, but he suspects whatever the developer comes back with, it's not going to make any difference whether it's R-4 or R-2.

Bills-Strand thinks that the R-2/R-4 issue needs to be investigated for all of the neighborhoods—not just this one.

Carlson does not understand how having this particular applicant wait will benefit these people and the community. Bills-Strand believes there is a way to protect some of these neighborhoods.

Steward suggested that the larger principle is the Comprehensive Plan. If we attempt to do planning, one neighborhood at a time, we are negating the value and the benefit of a so-called Comprehensive Plan. It's very much like trying to do spot zoning. It's just a little bit bigger spot and you begin to change one, and another, and another, outside of the principle and outside of the context of public input and professional development of a Comprehensive Plan. Let's not forget that there are unintended consequences attached to the Comprehensive Plan. We've seen it just this last week where the Council refused to support a recommendation that came out of the CIP which is now tied to the Comprehensive Plan, which means there is a direct relationship to the tax value operation of the city. We are looking at the possibility of some strong recommendation and some creative ways to begin to deal with what the inner city is to be, at the same time that we are struggling for the edge to not continue to sprawl. These are not disconnected issues. The

Planning Department is doing everything possible to support the Comprehensive Plan to come up with new tools that relate, and this is a process that has grown outside the principles of comprehensive planning, and that is not in the best interest of the city.

Motion to amend to place on pending carried 6-3: Krieser, Larson, Duvall, Bills-Strand, Steward and Schwinn voting 'yes'; Carlson, Taylor and Marvin voting 'no'.

Carlson was concerned about placing it on pending without a date certain. Brian Will of Planning staff believes the City Council could ask the Commission to make a recommendation.

Main motion, as amended, which places this change of zone on the pending list, carried 6-3: Krieser, Larson, Duvall, Bills-Strand, Steward and Schwinn voting 'yes'; Carlson, Taylor and Marvin voting 'no'.

RECONSIDERATION BY PLANNING COMMISSION:

September 3, 2003

Members present: Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward; Larson absent.

Staff recommendation: Denial.

On August 20, 2003, by a vote of 6-3, the Planning Commission placed this application on their pending list for an indefinite period of time to give the Planning Department an opportunity to look at a further study of the complications of downzoning property throughout the city from R-4 to R-2. Steward asked Rick Peo of the City Law Department to discuss his memorandum dated August 27, 2003, which suggests that the Planning Commission does not have the authority to place an application on pending for an indefinite period of time without the applicant's consent.

Peo explained that the Planning Commission's responsibility is to evaluate the application in light of the criteria set forth in the Charter and Ordinance to make a decision. Failure to make a timely decision puts the Planning Commission, City Council and the public in a quandary as to what to do. An applicant's recourse would be to go to the courts and seek a mandamus action ordering the Planning Commission to fulfill its responsibility to be an advisory body to the City Council. Placing this application on pending holds the applicant hostage in that the application is not being forwarded to the body to which the applicant is allowed to petition.

Peo urged that in order to avoid legal complications and issues, it is the responsibility of the Planning Commission to make a timely decision on the requested change of zone. Motion to place on pending for a limited time and date certain are feasible, but if the information is incomplete and the Commission cannot make a decision as to conformance or the affect on abutting properties based on lack of evidence, the Commission should ask for additional information or evidence.

However, in this situation, Peo believes there is a problem as far as consistency with the Comprehensive Plan. The decision as to whether it is wise to make a decision is the decision of the City Council. The Planning Commission might suggest to the City Council that the application is premature or give suggestions to the Planning Dept. Peo would recommend that the Planning Commission act to take this application off pending and take action today. This would require a waiver of Robert's Rules.

Steward requested more discussion about the matter of this action in relationship to the Comprehensive Plan. In this circumstance, we have a potential interpretation which some of the Commissioners made, that the requested action was not necessarily in conformance with the Comprehensive Plan, and with the knowledge that there were studies underway intended or pending that would potentially shed more light on this issue. It seems that this is a lot different than a request for action in the circumstance of a development where there are economic consequences pending and high pressure for community improvement to be gained from almost immediate action. He is wondering how this differs from some other aspect that seems to be counter to the Comprehensive Plan, knowing that there are decisions to be made that will influence this and knowing, at the same time, that it is highly likely that once this action may be taken, that it will not be able to be reversed if different information or arguments arise from the study. Peo suggested that the Planning Commission could say more than yes or no. Typically, the Planning Commission is adopting a recommendation. As far as conflicts in the Comprehensive Plan, Peo suggested that the Comprehensive Plan is not a document that doesn't blend or overlap. Maybe additional study is needed. The Planning Commission's report to the City Council can be broad. Maybe the Council needs to order it back or put it on pending and ask for further review of the R-4 versus R-2 issues. If the application is denied, the applicant is required to wait one year before reapplying. It is still the City Council's decision as to whether to withhold making a recommendation. Peo suggested that the Commission could modify the staff analysis to reflect the Commission's opinions in making its recommendation.

Bills-Strand was concerned that the Planning Commission is not allowed to place an application on pending while there is a study being done, and in this case, the Comprehensive Plan calls for higher density affordable housing. Peo indicated that he has never supported placing applications on pending waiting for studies. He is concerned about not advising the next body. It's more defensible if there is a study going on that has an end in sight. In this case, no study has been initiated. There is no timeline for a study to be completed. You are placing an applicant in limbo. A study may or may not occur. There has been no direction mandated to the Planning Department to make that

study or complete it within a timeline. The City Council has to weigh these same types of concerns when an application comes forward. He does not believe putting it on indefinite pending is a "reasonable" timeline.

Bills-Strand wondered if the Commission could make an amendment to the Comprehensive Plan to request a study. Peo believes the Commission can ask the Director to initiate a Comprehensive Plan amendment.

Motion to Waive Rules: Bills-Strand made a motion to waive Robert's Rules and to remove Change of Zone No. 3416 from the pending list to allow a motion to reconsider beyond the time limited provided by Robert's Rules of Order, seconded by Taylor and carried 7-0: Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

Motion to Reconsider: Bills-Strand moved to reconsider Planning Commission action taken on August 20, 2003, which placed this change of zone on the Planning Commission's pending list, seconded by Duvall and carried 7-0: Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'.

Motion upon Reconsideration: Taylor moved to close public hearing and recommend approval of the change of zone, seconded by Carlson.

Taylor referred to the comments he made on August 20th.

Bills-Strand stated that she will not support this. She is in support of looking at ways to protect single family residential areas, but she is not sure a change of zone to R-2 is the best way. Affordable housing is becoming a bigger and bigger issue in Lincoln and it is addressed in the Comprehensive Plan. We can add new urbanism in old neighborhoods with some very nice looking row houses to add affordable housing, which R-2 zoning would not allow. This could be added as houses are deteriorating. R-2 is really limiting. She would rather vote denial, with a recommendation to the City Council that they do a study and put this on pending for three months. She believes that the Planning Director has indicated that a study could be done within three months.

Duvall commented that there are a lot of neighborhoods that are 30-40-50 years old going through this transition, so this is an endemic problem for the community and we need to have a broad policy that is sensitive to these needs. As neighborhoods go through transition, there are opportunities and there should be an intelligent change put in place. He believes the change to R-2 would limit potential growth.

Marvin stated that he will vote in favor because he believes we are making a mistake if we let these neighborhoods turn over into duplexes. If we want to talk about affordable housing, he believes that it does exist in the older neighborhoods. He did a study of 55,000 homes in Lincoln -- 27,500 were selling for under \$110,000 -- "you can't tell me we have homes that are overpriced that people can't get into." Those homes exist in the interior parts of the city. If we allow these homes to convert into apartments (like the application that caused this ruckus), then we wind up making those people leave the neighborhood with their families and kids. The homes then turn into rentals that are half-full, and the inner city schools won't have students because there are no families. It is Marvin's opinion that single family ownership in the interior must be encouraged, and this change to R-2 protects that. The

Comprehensive Plan speaks to the issue of allowing downzoning where strong community support exists. We have petitions of well over 100 people who want this approved. We do not need to wait for a study for this particular area.

Taylor believes this to be a classic example of a very fine neighborhood. We should not avoid their request and put it in the hands of a nebulous future. Taylor is not in favor of putting their future on hold or on pending in lieu of a study that can be studied over and over again. Let this be another exception. We've done it before.

Bills-Strand pointed out that R-2 zoning does allow duplexes and she could have supported this. But, these residents indicated that they plan to come forward with more of the area, and she wants to get the study done before it starts snow-balling.

Carlson believes these comments can be made to the Council independent of placing this on pending. The notion as to "irreversibility" is not borne out historically or philosophically. Many of these areas are zoned the way they are based on the downtown orientation, which unfortunately has been abandoned on several other projects. We need to be careful that some decision that is made today will not hamstring us or shackle us indefinitely in the future. Circumstances will change. If a developer comes forward with a superior product, there is nothing stopping it within the R-2 zoning with a community unit plan, or the developer can ask for the upzone.

Steward will not support the motion to approve because it is a condition and a situation that has changed at this place and this time that is larger than this individual neighborhood. The need for a study is paramount and the sooner that we can take action that will cause that to happen, the better the city will be. Steward reiterated that this is not dissimilar from spot zoning of individual property -- it is just a larger "spot", and his vote against this is not a vote against the neighborhood nor against their intelligence, values or right to property values. Change does not mean lower values. There are many ways that this can be approached. We just have not had the consequences in front of us to look at it carefully from a center-outward potential of impact. It is not a downtown or mid-town or other edge issue -- it's a cost of services issue -- it's forcing more search at the edges when you hold everything static in the middle, and that would be true if you were talking about Downtown or Near South or any of the immediately adjacent areas. He believes that this is something that we need to pass on so that the study can be authorized because it is urgent. This is the best place to call for the action to get that done.

Motion to approve failed 3-4: Carlson, Marvin and Taylor voting 'yes'; Bills-Strand, Duvall, Krieser and Steward voting 'no'.

Bills-Strand moved to deny, with a caveat to the City Council to put this application on pending for three months and call for a study, seconded by Duvall.

Bills-Strand stated that this is nothing against the neighborhood. She could have supported it, but knowing it's a chain reaction, she wants to get the study in place.

Carlson is concerned that the current work load demand. The staff report stated that, "....with current workload demands, the Planning Department is not able to begin looking at this issue in the near future." Given specific direction, hopefully that will change.

Taylor will not support the motion. If these people had not come forward, there would have been no mention of any study. They have addressed an issue and they are taking steps to solve that problem. He believes approving this will be productive with value added to the neighborhood and to this community as a whole.

Carlson does not believe the neighbors should be denied their choice of protection while a study is being done.

Marvin stated that he will vote in favor of the motion to deny to get five votes so that this application can be moved forward. He does not want it left at this level.

Motion to deny, with a request that the City Council place this application on pending for three months and direct the Planning Director to conduct a study of zoning options, carried 5-2: Bills-Strand, Krieser, Duvall, Marvin and Steward voting 'yes'; Carlson and Taylor voting 'no'.

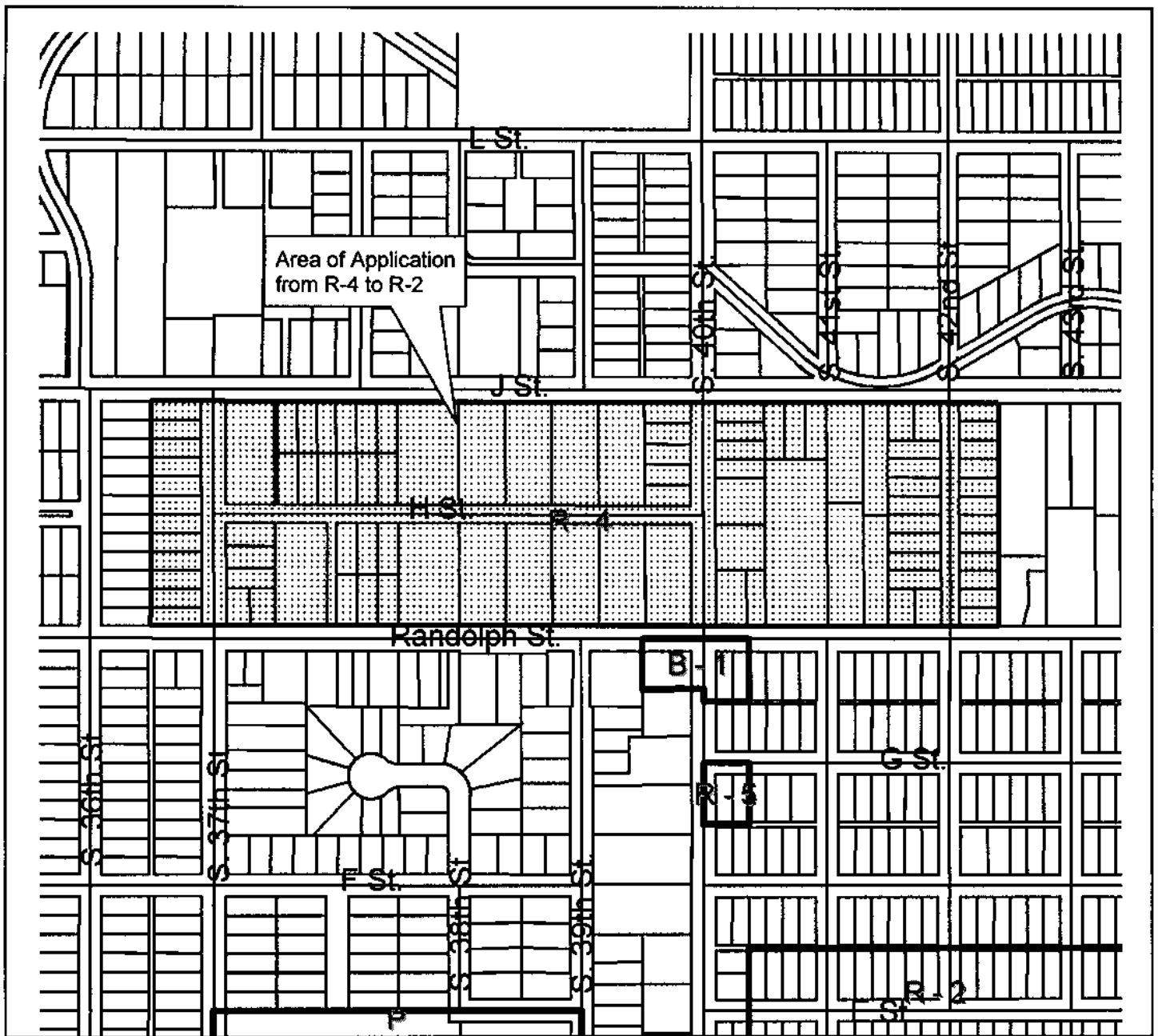


Change of Zone #3416 S. 37th & J Street



18

Lincoln City - Lancaster County Planning Dept.
2002 aerial

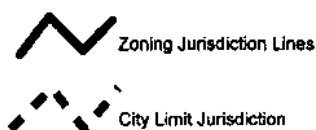
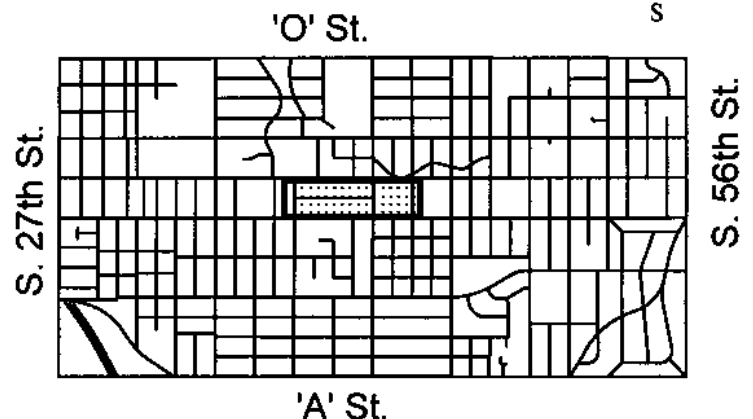


Change of Zone #3416 S. 37th & J Street

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

Two Square Mile
Sec. 29 T10N R7E
Sec. 30 T10N R7E



WITHERBEE NEIGHBORHOOD ASSOCIATION

July 23, 2003

City of Lincoln
Planning Commission
555 S. 10th Street
Lincoln, NE 68508

Dear Members:

Please find attached the application for change of zone submitted by the Witherbee Neighborhood Association concerning land within the Association boundaries, and more properly described by the legal description attached to the application. The purpose of this letter is to accompany and clarify the Petition to Amend the Zoning Ordinance.

Goals for the Witherbee Neighborhood Association include working for stability, including reasonable, well-planned development, within the Association's borders. We seek also to protect the health, safety and welfare of the current residents.

Witherbee Neighborhood Association boundaries are 33rd St. to 56th St., O St. to Randolph St. We are located in the heart of Lincoln and are working to preserve and enhance the best elements of the area for the benefits of residents here as well as for those throughout Lincoln. Our area includes four schools that are within walking distance for many of the children. It also encompasses neighborhoods filled with architecturally distinct homes, stately mature trees and brick streets.

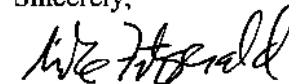
The current R4 zoning in the Association's boundaries allows for high-density development that does not take into account the character of the neighborhood, the size of the streets, the safety concerns of its families, and the quality of life that is enjoyed by the families residing here.

The attractive nature of the community and the safety of its residents will be compromised by large-scale or out-of-character development within its borders. Unfortunately, certain design standards within the Lincoln Municipal Code may provide for large-scale development (given a developer buys enough property) within an R4 zoned area. However, such large-scale development does not take into account the unique character of the neighborhood or the safety of its residents. Homeowners and other residents within the Association's borders overwhelmingly support a change to the R2 zoning because they recognize it as a tool that has protected the character, ensured safety of residents, resulted in appropriate traffic, and promoted home ownership in other nearby residential areas.

We believe that all of us, residents, developers and city leaders, have an obligation and an opportunity to work to make the best of our neighborhoods and city. We should not settle for the lowest common denominator. We take guidance from the Lincoln-Lancaster County Comprehensive Plan that says single-family ownership is the foundation on which successful communities are built. It also states that neighborhoods are one of Lincoln's greatest strengths and their conservation is fundamental to the plan. We believe the many and diverse writers of the Plan realized the quality of 1930s to 1950s work (platting, infrastructure and home construction) which established our neighborhood. This area is now at the center of Lincoln and R2 zoning can help preserve it.

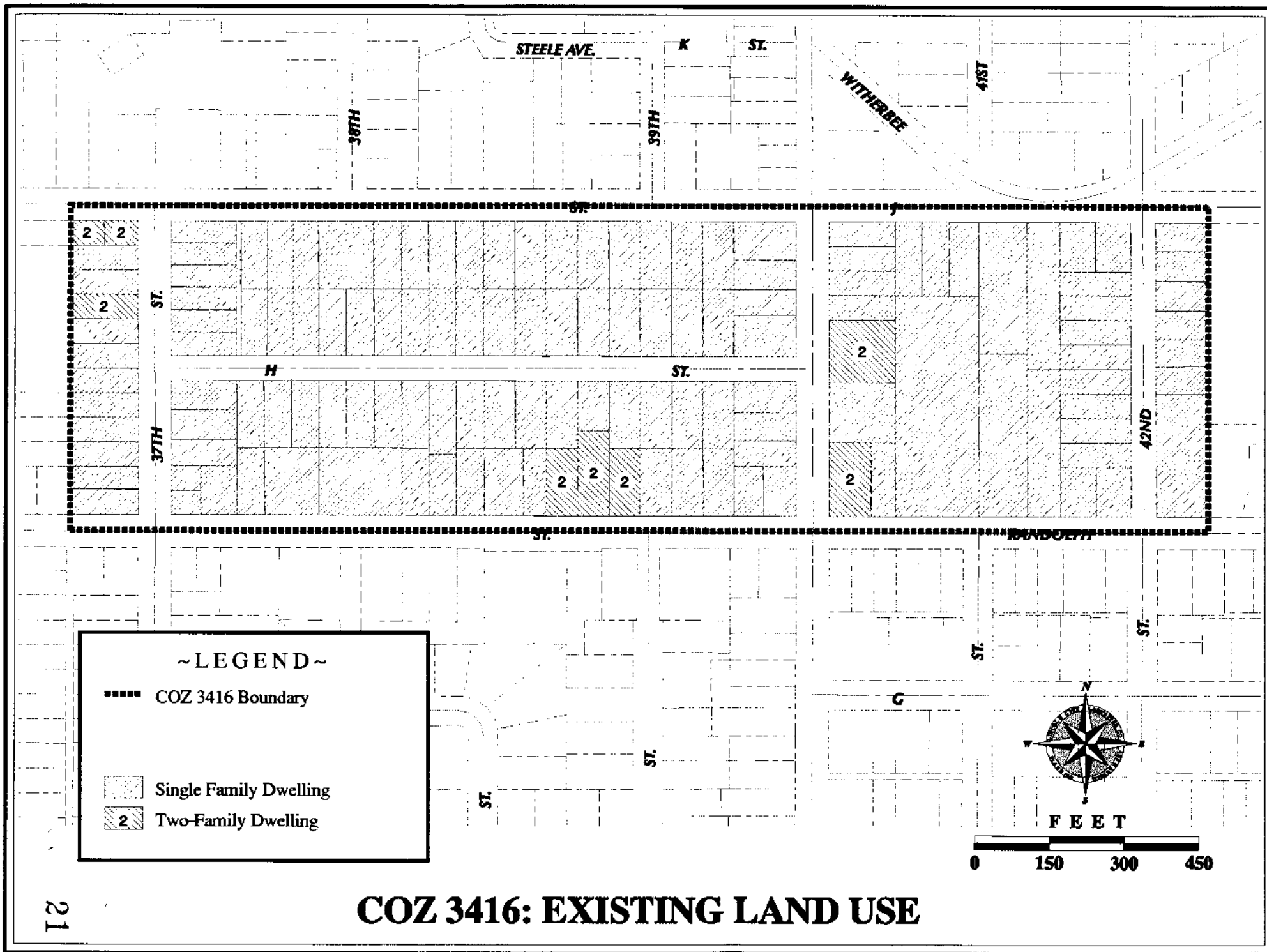
To assist you in evaluating our request for rezoning, we will submit in the near future petitions signed by the residents and property owners within the proposed rezone area who support the change from R4 to R2. Should you have any questions or concerns regarding the application or any of its attachments, please feel free to contact me at your convenience.

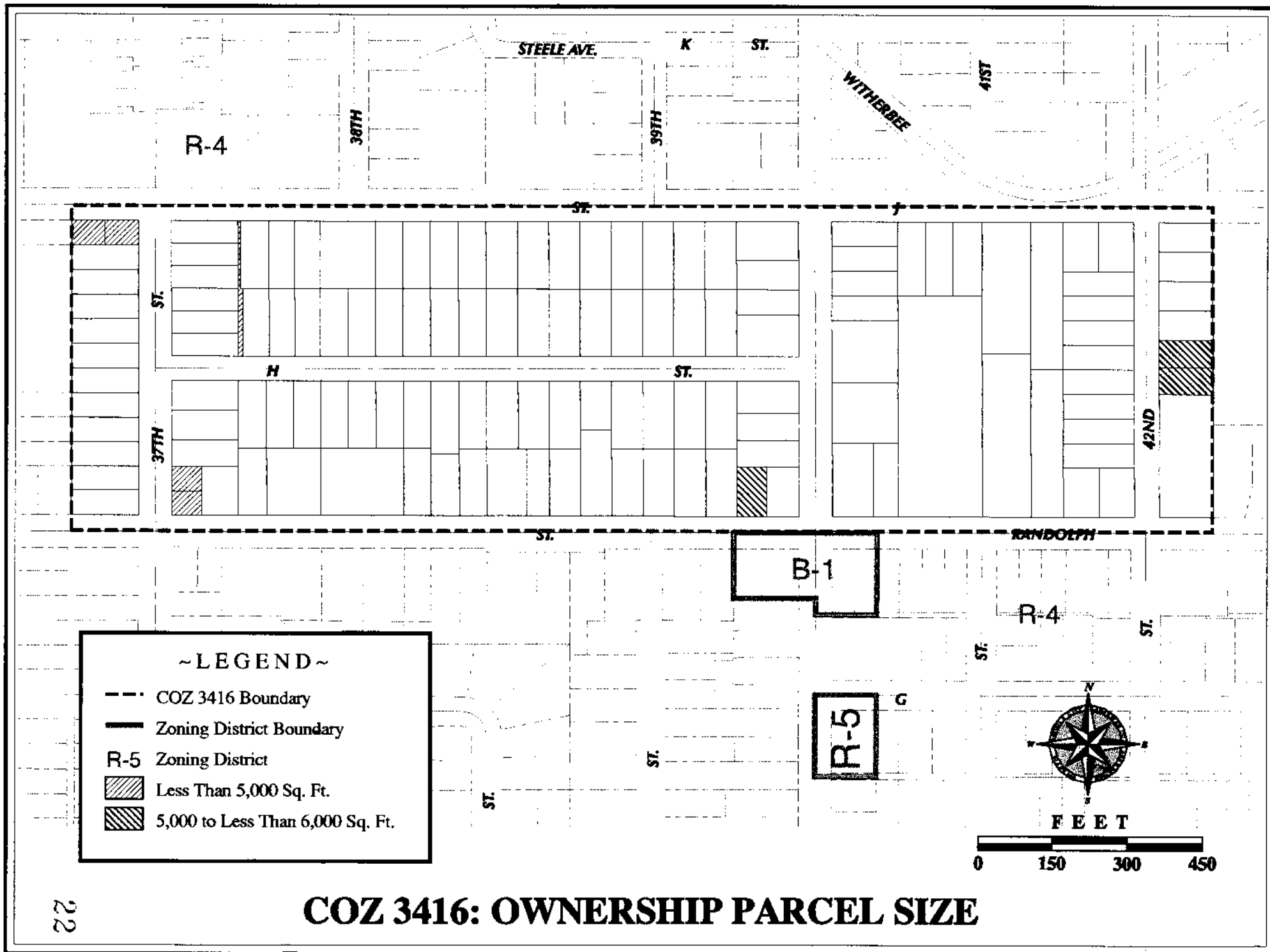
Sincerely,

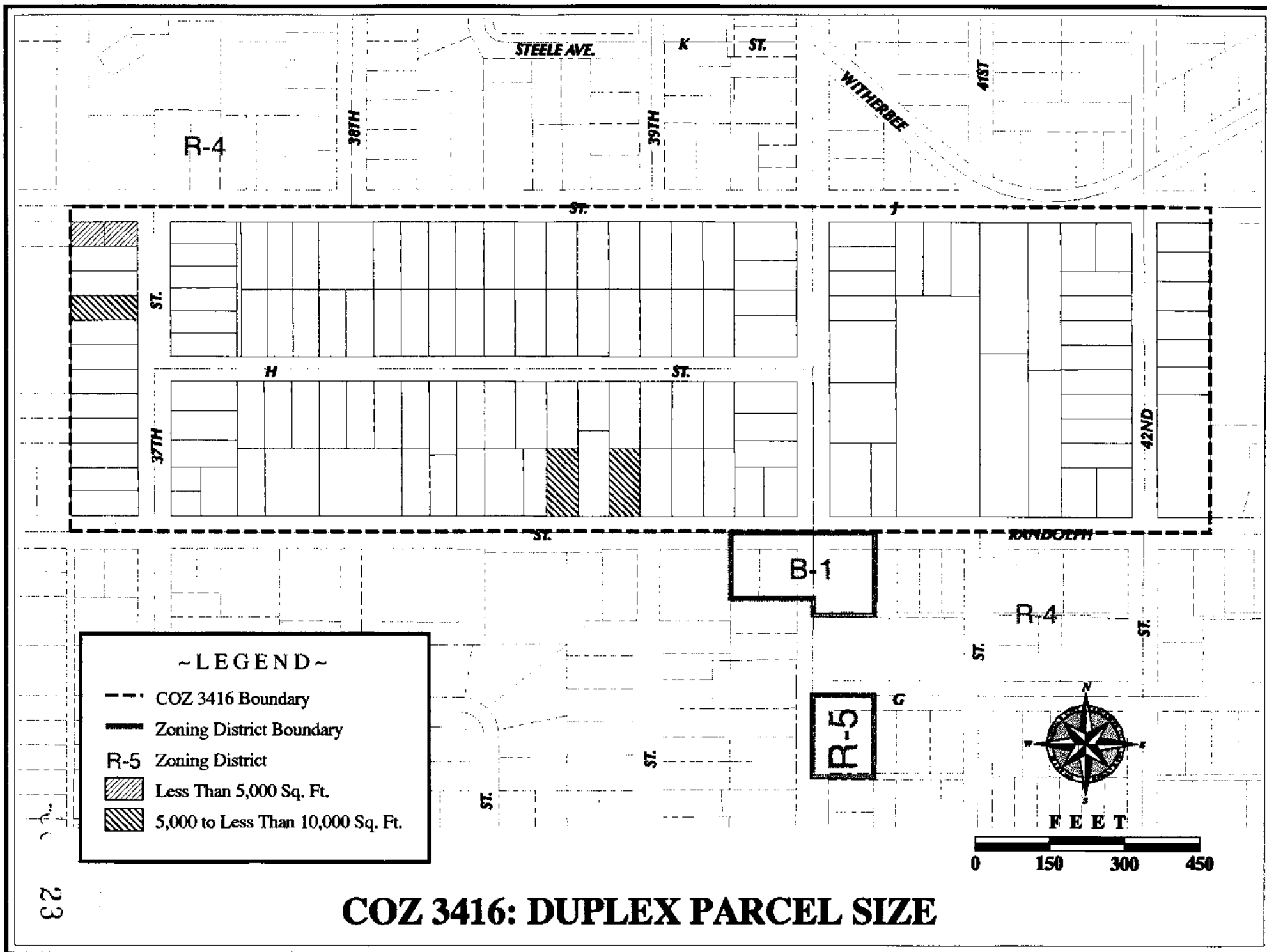


Mike Fitzgerald, President
Witherbee Neighborhood Association

RECEIVED
JUL 23 2003
CITY OF LINCOLN
PLANNING DEPARTMENT







INTER-DEPARTMENT COMMUNICATION

TO	Lincoln Lancaster County Planning Commission	DATE	August 27, 2003
DEPARTMENT		FROM	Rick Peo
ATTENTION		DEPARTMENT	City Law
COPIES TO	Marvin Krout Dana Roper	SUBJECT	Change of Zone 3416 from R-4 Residential to R-2 Residential District requested by the Witherbee Neighborhood Association, on property generally located at S. 37th Street and J Street

This memo is in response to the vote of the Planning Commission to place the above referenced Change of Zone 3416 on pending for an indefinite period of time. It is the opinion of this office that such action is inappropriate.

The City Planning Commission is created by Section 2 Article IX-B of the Lincoln Charter and is granted the following authority:

The commission's powers and duties shall extend to advising the mayor, council, and planning director on all matters concerning the planning program and the performance of those acts related to the comprehensive plan, the capital improvements program, the zoning ordinance, and the land subdivision regulations that are described in subsequent sections of this article.

With respect to matters pertaining to zoning the duties of the Planning Commission are set forth in Section 9 of Article IX-B. Section 9 provides in part that:

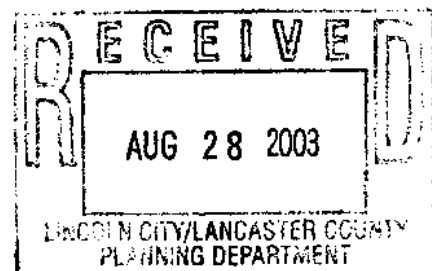
The city council may amend, supplement, or otherwise modify the zoning ordinance. Any such proposed amendment, supplement, or modification shall first be submitted to the planning commission for its recommendations and report. The planning commission shall hold at least one public hearing with relation thereto, before submitting its recommendations and report. After the recommendation and report of the planning commission have been filed, the city council shall, before enacting any proposed amendment, supplement, or modification, hold a public hearing in relation thereto. (Emphasis Added)

Details regarding what is to be in the Planning Commission's recommendation and report are set forth in the procedures for processing amendments to the zoning code found in Lincoln Municipal Code § 27.81.040. That section provides in part that:

The City Council may from time to time on its own motion, or on petition, amend, supplement, or otherwise modify this title. Any such proposed amendment, supplement, or modification shall first be submitted to the Planning Commission for its recommendations and report. Said report shall contain the findings of the commission regarding the effect of the proposed amendment, supplement, or modification upon adjacent property and upon the Comprehensive Plan of the City of Lincoln. After the recommendations and report of the Planning Commission have been filed, the City Council shall, before enacting any proposed amendment, supplement, or modification hold a public hearing in relation thereto, giving notice of the time and place of such hearing as provided in Section 27.81.050.
(Emphasis added)

Based upon the above provisions it is clear that when reviewing an application for a change of zone the Planning Commission has an affirmative duty to act in an advisory capacity to the City Council. Although no specific time line is provided for the Planning Commission to make its report and recommendation, the Commission must act within a reasonable period of time. In other words, once sufficient evidence is presented to the Commission regarding the effect of the proposed change of zone on adjacent property and upon the Comprehensive Plan of the City of Lincoln, the Planning Commission is to take action and make its report and recommendation to the City Council. Any delay in making such report and recommendation must be justified based upon an absence of facts regarding the effect of the proposed change of zone on adjacent property and the Comprehensive Plan. It is not within the power of the Planning Commission to thwart City Council consideration of a requested change of zone by placing the item on pending for an indefinite period of time. Thus, in the present matter it is not proper for the Commission to delay action upon Change of Zone 3416 contingent upon completion of some undescribed future Citywide evaluation of the R-2/R-4 down zoning issue. If the Planning Commission believes that the application for down-zoning is premature, then the Commission should state that in its report and recommendation rather than postponing its action.

ERP/tb



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AUG - 6 2003

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

We the undersigned property owners within the boundaries of the south side of J Street to the north side of Randolph and the west side of 37th Street to the east side of 42nd Street, request a change in zoning from R4 to R2, for the purpose of preserving the character and the current surrounding density of the affected neighborhood, as well as protecting the health, safety and general welfare of the residents.

	Name (print)	Address	Signature	Date
1✓	DAN WESOLOWSKI	3901 J Street	Dan Wesolowski	7-28-03
2✓	Cheryl Wesolowski	3901 J St.	Cheryl Wesolowski	7-28-03
3✓	Emille Johnson	3849 J St.	Emille Johnson	7-28-03
4✓	Michael Ryan	3835 J Street	Michael Ryan	07/28/03
5✓	Marcie Ryan	3835 J ST	Marcie Ryan	07/28/03
6✓	ANITA DICK	3815 J ST.	Anita Dick	7/28/03
7✓	Scott Bauer	3811 J St.	Scott Bauer	7/28/03
8✓	Lisa Bauer	3811 J St.	Lisa Bauer	7/28/03
9✓	RONALD STANHOPE	3911 F ST	Ronald Stanhope	7/28/03
10✓	Charles Butler	3803 J St	Charles Butler	7-28-03
11✓	Bori Umick	3801 J St.	Bori Umick	7/28/03
12	Veraed Johnson	3755 J St	Veraed Johnson	7-28-03
13	MAURICE MONTE MOSER	3921 "J" St.	Maurice Monte Moser	7-29-03
14	Janette Kleveland	3743 J	Janette Kleveland	7/29/03
15	Al Lemon	3725 J	Al Lemon	7/29/03

Signatures collected by:

Dan Wesolowski
Dan Wesolowski

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AUG - 6 2003

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	Name (print)	Address	Signature	Date
✓1	MICHAEL J NICHOLSON	623 So 42	Michael J Nicholson	7-29-03
✓2	SHAWNA HAYS	635 So. 42	Shawna S. Hays	7-29-03
✓3	Josh Hays	635 So. 42	Josh Hays	7-29-03
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Signatures collected by: Andy Hackburn


R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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AUG - 6 2003

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	Name (print)	Address	Signature	Date
✓1	Carl Christian	3725 J Street		7/29/03
✓2	JUDITH M. Moser	3921 J Street	Judith M. Moser	7-29/03
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Signatures collected by:


Dan Wesolowski

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R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

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	Name (print)	Address	Signature	Date
1 ✓	DAVID INNIS	3775 J	David Innis	8/1/2003
2 ✓	Susan Field	3807 J	Susan Field	8/1/03
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Signatures collected by: Dan W. Wolowski

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

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	Name (print)	Address	Signature	Date
1✓	EMERALD POWERS	3812 H ST	Emerald Powers	Aug 2-03
2✓	JASON Stadler	3724 H ST	Jason Stadler	8-3-03
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Signatures collected by:

Shirley Ward

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

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	Name (print)	Address	Signature	Date
1 ✓	KEVIN WARD	3754 H	Kevin Ward	7/19/03
2 ✓	Katie Cloener	3742 H St.	Katie Cloener	7/19/03
3 ✓	Matt Anderson	3782 H St	Matt Anderson	7/19/03
4 ✓	Steve Kontos	3772 H St	Steve M Kontos	7/19/03
5 ✓	Crystal Wubbels	3800 H St	Crystal Wubbels	7/19/03
6 ✓	TRACY J. MUELLER	3824 H St.	Tracy J Mueller	7/19/03
7 ✓	JOHN LOWE	3834 H St	John Lowe	"
8		3844 H St.		
9 ✓	Shawn Williams	3900 H St	Shawn R. Williams	7/19/03
10 ✓	PAUL JON RATHOEN	3912 H ST	Paul Ratho	7-19-03
11 ✓	JERRY NUSS	3920 H	Jerry Nuss	7-19-03
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Signatures collected by:

Shawn Ward

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

RECEIVED

AUG - 6 2003

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	Name (print)	Address	Signature	Date
✓ 1	Michael Lomax	4200 Randolph St	Michael Lomax	7-22-2003
✓ 2	Dwaine Mapel	721 So. 42nd	Dwaine Mapel	7-22-03
- 3	BARBARA A. HIBNER	727 So. 42nd	Barbara A. Hibner	7-23-03
✓ 4	Robert Funder	601 S. 42nd	Robert Funder	7-23-03
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Signatures collected by: Josh Sovereign

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

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	Name (print)	Address	Signature	Date
✓ 1	PHUONG - Le	737 42	<i>[Signature]</i>	7/26/03
✓ 2	Kerri M. Hiatt	634 S. 42nd St	<i>[Signature]</i>	7/26/03
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Signatures collected by: Josh Sovereign

RECEIVED
AUG - 6 2003

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
1 ✓	Tonja A Buchholz	710 S. 37 th St	Tonja A Buchholz	19 Jul 03
2 ✓	Greg A Lang	711 So. 37 th St.	Greg A. Lang	July 29, 2003
3 ✓	Jeff R Jones	722 S 37 th St	Jeff Jones	7-29-2003
4 ✓	Nancy Shelley	700 So. 37 th St.	Nancy M Shelley	7-29-03
5 ✓	William F. Blockwitz	645 So. 37 th St.	William F. Blockwitz	29 July 03
6 ✓	Mary D Morin	703 S 37 th	Mary D Morin	7-29-03
7 ✓	Jennifer Sween-Powell	609 S 37	Jennifer Sween-Powell	7-29-03
8 ✓	Patricia J. Lang	711 So. 37	Patricia J. Lang	7-29-03
9 ✓	Barbara L. Boyce	735 So. 37 th	Barbara L Boyce	7-30-03
10 ✓	ANTONIO MARQUEZ JR.	729 S. 37 th	Antonio Marquez	7-30-03
11 ✓	Kathryn J Shastny	730 So 37 th	Kathryn J Shastny	7-30-03
12 ✓	Gary Brienza	624 S. 37 th St	Gary Brienza	7-30-03
13 ✓	Gary Brienza	624 S. 37 th St	Gary Brienza	7-30-03
14 ✓	Pat Wense	619 S 37	Pat Wense	30 Jul 03
15 ✓	Lisa Lyons	627 So 37	Lisa Lyons, NE	7/30/03

Signatures collected by: Mary D Morin

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

We the undersigned property owners within the boundaries of the south side of J Street to the north side of Randolph and the west side of 37th Street to the east side of 42nd Street, request a change in zoning from R4 to R2, for the purpose of preserving the character and the current surrounding density of the affected neighborhood, as well as protecting the health, safety and general welfare of the residents.

	Name (print)	Address	Signature	Date
1 ✓	Selma Moore	630 So 37	Selma Moore	8/1/03-
2 ✓	JAMES BOILESEN	635 S 37th	James Boilesen	8/1/03
3 ✓	Sue A. Tillinghast	721 S 37th	Sue A. Tillinghast	8-1-03
4 ✓	Karl G. Tillinghast	721 S 37th	Karl G. Tillinghast	8-1-03
5 ✓	Jayne S. Draper	745 S. 37th	Jayne S. Draper	8-1-03
6 ✓	Bart & Carrie Moseman	612 S. 37th St.	Carrie & Bart Moseman	8-1-03
7 ✓	Mansa Kelly	610 S. 37th St.	Mansa Kelly	8-2-03
8 ✓	Shane Kelly	610 S 37th St	Shane Kelly	8-2-03
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Signatures collected by: Mary D Morin

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
✓1	MARTHA SICKLER	711 So 40 th St.	Martha Sickler	7-28-2003
✓2	Randy Leber	4025 J ST	Randy Leber	8-3-03
✓3	Margie Martinez	4015 J St.	Margie Martinez	8-3-03
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Signatures collected by: *Randy Leber*

RECEIVED
AUG - 6 2003

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
✓ 1	Brett Hampton	201 S. 42nd St.	Brett Hampton	7-19-03
✓ 2	Josh + Julie Sovereign	645 S. 42nd St	Josh Sovereign	7-19-2003
✓ 3	Greg Kallenbach	624 S. 42nd St	Greg Kallenbach	7-23-2003
✓ 4	Winnie Osborn	600 So. 42nd St	Winnie Osborn	7-23-03
✓ 5	Harold Osborn	600 So. 42nd St.	Harold Osborn	7-23-2003
✓ 6	Sandie Frank	700 S. 42nd	Sandra Frank	7-23-03
✓ 7	Robert Frank	700 S. 42nd	Robert Frank	07/23/03
✓ 8	Andrew G. Washburn	619 So. 42nd St.	Andrew G. Washburn	7-23-03
✓ 9	Margaret S. Washburn	619 So. 42nd St.	Margaret S. Washburn	7-23-03
✓ 10	Terry A. Holt	646 So 42nd St	Terry A. Holt	7-26-03
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Signatures collected by: Margaret S. Washburn

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

AUG - 6 2003

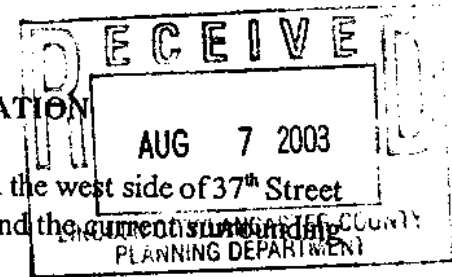
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	Name (print)	Address	Signature	Date
✓1	Tonja A Buchholz	4100 Randolph St	Tonja A Buchholz	7/19/03
✓2	Eldon R. Henning	624 South 40	Eldon R. Henning	7-20-03
✓3	ED STALLER	705 So. 40	Ed Staller	7-20-03
✓4	TIFFANY A. ROUBAL	610 S. 40 TH	Tiffany A. Roubal	7/21/03
✓5	John Cialik	601 S 40 TH	John Cialik	7/21/03
✓6	Arlene Schutte	717 S. 40 th	Arlene Schutte	7/21/03
✓7	Christopher B. Bishy	1001 S. 36 th St ^{3200 Randolph}	Christopher B. Bishy	7/21/03
8	Michelle Hrbek	1615 So. 40 th St	Michelle Hrbek	7/21/03
✓9	Shirley K. Johnson	4118 Randolph	Shirley Johnson	July 22-'03
✓10	Richard A Miller	4122 Randolph	Richard A. Miller	7-22-03
✓11	Carrell J. McElhenny	640 South 40 th Street	Carrell J. McElhenny	7/27/03
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Signatures collected by:

Carrell J. McElhenny

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION



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	Name (print)	Address	Signature	Date
	John L. Swelburg	2240 SO. COTTON ^{3840 Randolph}	[Signature]	8-8-03
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Signatures collected by: [Signature]

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R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION AUG - 6 2003

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	Name (print)	Address	Signature	Date
✓1	Mike Olson	3750 Randolph St.	<i>Mike Olson</i>	7/27/03
✓2	Julia Schroeder	3808 Randolph	<i>Julia C. Schroeder</i>	7/27/03
✓3	Robert Pratt	3910 Randolph	<i>Robert Pratt</i>	7-27-03
✓4	Amy Santos	3920 Randolph	<i>Amy Santos</i>	7/27/03
✓5	Shirley Johnson	4118 Randolph St	<i>Shirley Johnson</i>	July 27-03
✓6	Debra K. Fuller	3900 Randolph St	<i>Debra K. Fuller</i>	7-27-03
✓7	Kelly D. Fuller	3900 Randolph St	<i>Kelly D. Fuller</i>	7-27-03
✓8	Tony O'Buchholz	4100 Randolph St	<i>Tony O'Buchholz</i>	7/27/03
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Signatures collected by: Edward F. Hoffman

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

RECEIVED

AUG 7 2003

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	Name (print)	Address	Signature	Date
1	Tim Stewart	3824 Randolph	Tim Stewart	8-7-03
2	Tony Julianelle	3784 Randolph	Tony Julianelle	8-7-03
3	Sarah Julianelle	3784 Randolph	Sarah Julianelle	8-7-03
4	Cynthia B Humann	3724 Randolph	Cynthia B Humann	8-7-03
5	Richard M. Humann	3724 RANDOLPH	Richard M Humann	8-7-03
6	Peter Hopwood	34 3748 Randolph	P Hopwood	8-7-03
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Signatures collected by:

[Signature]

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
✓ 1	Timothy G. WERNER	3785 H. STREET	Timothy G. Werner	23 July 2003
2	Louis E. Hurst	3844 H. St.	Louis E. Hurst	July 30, 2003
3	CAMILLA S. HURST	3844 "H" ST.	Camilla S. Hurst	7/30/03
✓ 4	David ALLES	3753 H street	David Alles	8/2/03
5	Kit Hams	3705 511 Eastridge ^{3623, 25, 3641, 43}	Kit Hams	8/4/03
6	Mary Hams	511 East ^{3623, 25, 41, 43} J St	Mary Hams	8/4/03
7	Joseph N Wright	3788 H STREET	Joseph N Wright	08 01 03.
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9	Barry Lake	3915 H St.	Has indicated via phone he will sign the petition.	Mike Fitzgerald 8-6-03
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Signatures collected by: Mike Fitzgerald

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
✓ 1	Mike Fitzgerald	3794 H	M. Fitzgerald	7-19-03
✓ 2	Linda Kollman	3795 H	Linda Kollman	7-19-03
✓ 3	Dellane Miller	3825 H	Dellane S. Miller	7-19-03
✓ 4	Gordon Rankin	3905 H	Gordon Rankin	7-19-03
✓ 5	Tobias Anderson	3845 H Street	Tobias Anderson	7-19-03
✓ 6	GLADYS PIERCE	3775 H	Gladys Pieper	7-19-03
✓ 7	HONY DE MIMMIA	37 H	Hony De Mimmia	7/19/03
✓ 8	Ann Richards	3815 H St	Ann Richards	7-20-03
✓ 9	STEVE RICHARDS	3815 H ST.	Steve Richards	7-20-03
✓ 10	Howard Schiefelbein	3801 H. St.	Howard Schiefelbein	7/21/03
✓ 11	JOHN DZERK	3769 H ST.	John Dzerk	7/21/03
✓ 12	Janice Cook	3745 H St.	Janice Cook	7-21-03
✓ 13	JANICE L. JONES	374 H St	Janice L. Jones	7-21-03
✓ 14	Ann Kozak	3725 H St	Ann Kozak	7-21-03
✓ 15	Craig Hilliges	3837 H St	Craig Hilliges	7-21-03
✓ 16	Jarot Waite	3923 'H' Street	Jarot Waite	7-21-03

Signatures collected by: Mike Fitzgerald

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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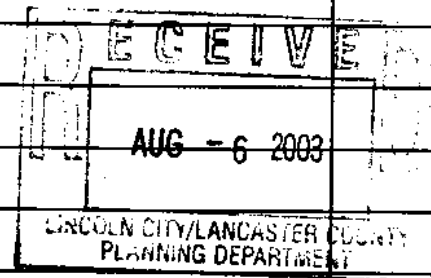
	Name (print)	Address	Signature	Date
1	Roger Reynolds	3201 Edward Ct (E own duplex 4000 Randolph)	[Signature]	8.1.03
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Signatures collected by: _____

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

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	Name (print)	Address	Signature	Date
1	Robert J Kelley	3760 H Street ^{Lincoln, NE} 68510	Robert J Kelley	06 Aug 03
2	John M. Olson	3750 RANDOLPH ^{LIN, NE} 68570	John M Olson	8/6/03
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Signatures collected by: Sharon Ward

August 17, 2003

Lincoln City/Lancaster County
Planning Commission
555 South 10th Street
Lincoln, NE 68508

Dear Commissioners:

I had hoped to participate in your public hearing regarding Change of Zone 3416, but a family commitment will prevent me from doing so. Instead I want to submit a few comments here and I am confident others from the Witherbee neighborhood will more than adequately convey the concerns and vision residents have for our area.

We believe this request for down zoning from R4 to R2 should be approved because it is overwhelmingly supported by property owners and residents within the requested area, as well as by those from surrounding blocks. We also believe the request should be approved because it is highly similar to others the Commission has approved recently and since 1995.

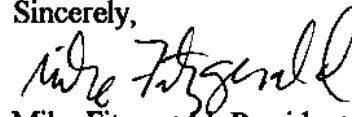
The Planning Department Staff Report states on page 8, paragraph 16, that R4 zoning includes neighborhood design standards applicable to new construction and that by changing to R2 our neighborhood would lose the requirement of proposals such as the Randolph Square CUP and childcare center having to meet the standards. Our primary concern is preventing safety, traffic and crime issues that stem from increased density. A secondary concern is compatible design and construction. R2 will help maintain comparable density in the neighborhood and in turn, safety. On the other hand, it would make little sense to allow high density development which would produce traffic, auto and pedestrian accidents and crime problems that the city would have to spend additional resources to mitigate.

The Planning Department tells us that the neighborhood design standards associated with R4 are somewhat subjective and not easily enforced, and we agree. In fact, there are recent examples of duplex construction in our area that do not fit the character of the neighborhood. Our point is that we would rather have the benefit now that larger lot-size requirements in R2 provide, while we pursue the possibility of having the design standards refined and means of enforcing them added to R2 regulations.

Simply, we don't want the irreversible negative affects of out-of-character construction that has been allowed in established neighborhoods such as the Near South neighborhood, and closer to home, in the area north of 24th to 26th and J.

We come before the city as united property owners who want to protect and maintain a neighborhood in the center of the city. This is an opportunity for the city to insure that a solid neighborhood remains solid. Left unchanged, the city risks having to deal with problems in our neighborhood that arise with increased density and absent property owners.

Sincerely,



Mike Fitzgerald, President
Witherbee Neighborhood Association



Matt & Jennifer
Brinkman
<brinkman_mj@alltel.net>

To: plan@ci.lincoln.ne.us
cc:
Subject: Change of Zone 3416

08/18/2003 02:01 PM

August 18, 2003

Dear Members of the Lincoln-Lancaster County Planning Commission:

On behalf of the East Campus Community Organization (ECCO), I am writing to support the Witherbee Neighborhood Association's request for a change of zone in the area from 37th to 42nd streets and J to Randolph streets from R-4 to R-2 (Change of Zone No. 3416).

The East Campus neighborhood struggles with issues similar to the Witherbee area. We are adjacent to the University of Nebraska's East Campus and have lots of rental housing mixed with older homes in the area. Developments placed in older neighborhoods that were not designed to support large density inevitably create challenges for the residents of the area. Not only do such projects change the character of the neighborhood, but create parking problems and other concerns that affect the quality of life for each property owner.

My husband and I bought our home in the East Campus neighborhood three years ago. We did so because we loved the historic feel of the area and character of the house we purchased. We have spent the last two years planning and making improvements to the home, including the refurbishment of the basement level. We will spend thousands of dollars to make additional improvements to our home in order to maintain a residence in the neighborhood we love.

I urge you to protect the character of the Witherbee neighborhood and support the efforts of their neighborhood association by approving their request for a change of zone. Thank you for your consideration.

Sincerely,

Jennifer Brinkman, President
East Campus Community Organization (ECCO)

(Hard copy to follow in US Mail)

Honorable commissioners,

I am writing to express my support for Change of zone 3416, proposed by the Witherbee Neighborhood association.

Despite the fact that planning staff recommend denial of this proposition, I urge its approval. The neighborhood as it exists is not as dense as either the Near South or the northern end of my own Everett Neighborhood, which is a very good thing. By approving CZ 3416 the Planning Commission can save a neighborhood before it is given over to the apartment conversions and wholesale demolition of homes for apartment developments. By approving the R-2 zoning you can signal that single family home ownership is a priority in the older core of the city, not just the expanding fringes.

I urge the commission to approve change of zone 3416 as proposed by the Witherbee Neighborhood Association.

Sincerely yours,

Jeffrey Tangeman
President, Everett Neighborhood Association

cc: Planning Commission
Public Works
Law Department
Applicant



Donna Hermance
<dhermanc@rcentral.org>

To: plan@ci.lincoln.ne.us
cc:
Subject: Change of Zone No. 3416

08/19/2003 10:21 AM

--

Please be advised that as a property owner living near Randolph and 40th Street, I strongly support the application for the change of Zone No. 3416 from R-4 to R-2.

Rationale:

1. As a new property owner, I would like to protect the character of my neighborhood. I used to live in the near south neighborhood and appreciated the charm and diversity of the architecture there. It was very disconcerting to come upon an unattractive apartment complex squeezed onto a small property just to earn big bucks for some one who didn't necessarily live in or care about the neighborhood. I really don't want that to happen in our neighborhood.
2. Adding apartments nearby would decrease the safety of our neighborhood. Traffic would increase on side streets which were not designed for such traffic. (My elderly father and I could no longer take walks safely down those street.)
3. Randolph Street has become a very busy street. Apartment complexes at 40th and Randolph would add a tremendous amount of congestion at that location. I chose the location of my house because I have quick access to many areas of the city. If my immediate neighborhood becomes more congested, then I would have to consider my location as no longer an asset.
4. As large apartment buildings are built, many mature trees are usually cut down. Trees not only take in carbon dioxide and give us oxygen, but they provide shade in the blistering hot Nebraska summers, providing comfort and saving energy. Healthy mature trees cannot be replaced overnight and are a loss to the beauty of our city.
5. Of course I don't want my property value to go down. I am putting a lot of effort and money into keeping up my property. Is it so wrong to be upset when parties can actually decrease the value of my home (and rob my neighborhood) in order to make a larger investment for themselves?

Lincoln is growing very fast. The newer neighborhoods can be designed for the increased traffic flow and safety issues. Ours can not. The charm and safety of our older neighborhoods must be preserved. Our neighborhood is a part of Lincoln's history. Once the character of the neighborhood is destroyed, it can never be replaced. I urge you to change the zoning to R-2.

Sincerely,

J. Crockett
Teacher and Witherbee Neighborhood Resident



VKWFeline@aol.com
08/20/2003 06:40 PM

To: plan@ci.lincoln.ne.us
cc:
Subject: Witherbee downzoning application

Dear Commissioners - I watched the latter half of the testimony re: this agenda item. Significant comments need to be highlighted, I think. Kudos to the Witherbee residents & their hard work. Just because they have gotten along fine for the last fifty years doesn't mean there isn't a problem now. Development interests have gotten more aggressive in the recent past. Rather than head knocking on the subject, making presumptions, or passively accepting the status quo, the citizens are clearly stepping up to the plate to let you know there are problems, and down zoning is one strategy for staying in the decision making process without harm to any interests & protect the quality of life in the neighborhood. Citizens are willing to participate effectively in resolving issues. Jon Carlson was absolutely right: the burden of proof should be on the developers, designers, builders to prove the worth of their project rather than simply design to the max of what is allowed, assume they have some divine right to approval of it, and consequences be damned.

The discussions about owner occupied, density, traffic, etc are well known indicators of quality of life. I was proud of all participants & the Planning Commission members for heading in the direction of doing what we know to be sound. Thanks.

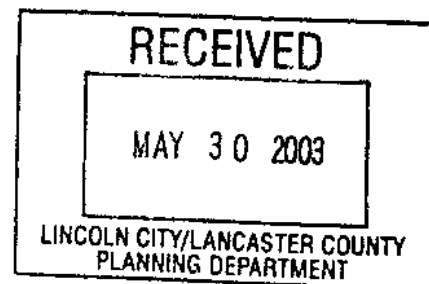
Ginny Wright
814 Lyncrest Drive
Lincoln, NE 68510

402-489-6239

ITEM NO. 3.3a&b: SPECIAL PERMIT NO. 2019
SPECIAL PERMIT NO. 2020
(p.195 - Public Hearing - 8/20/03)

ITEM NO. 3.4: CHANGE OF ZONE NO. 3416
(p.243 - Public Hearing - 8/20/03)

Lee Koch
3821 Steele Ave
Lincoln, NE 68510



Marvin Kraut
Lincoln/Lancaster County Planning Department
555 South 10th St
Lincoln, NE 68508

Greg Schwinn
Chair, Lincoln/Lancaster County Planning Commission
3707 Timberline Ct
Lincoln, NE 68506

May 28, 2003

Dear Sirs:

I am writing to express my strong opposition to the proposed development of "Randolph Square", at 40th and Randolph streets, by Steve TeSelle, dba Foresights, L.L.C. As you know, he is proposing to consolidate 6 separate properties, demolish 2 houses, build a 100-child daycare facility, and build two 16-plex dwellings.

As both a resident and business owner in the neighborhood I know that this particular development is bad: bad for the neighborhood, bad for the city, and certainly bad for the people living in this area.

Inconsistent with the neighborhood

Two, two-story, 16-plex dwellings are inconsistent with the single-family nature of this neighborhood. It would result in reduced property values, increased noise, traffic and crime, and a reduction of quality of life for the residents of the neighborhood.

The developer may call his 16-plexes "townhomes," but we all know what an apartment complex looks like, and this will turn into an apartment complex as soon as the developer "discovers" that no one wants to buy a "townhome" that looks and feels like an apartment in a big complex.

This neighborhood has distinct architectural styles, and the vast majority of residences are single-family dwellings. People move here for the central location, in order to have an older house with architectural features unavailable in similarly-priced new homes, and for the positive environment of established neighborhoods. Positive attributes of this established neighborhood include proximity to work, schools and churches, tree-lined streets, low crime rates, neighbors who invest in improving their properties, and stable neighbors.

Sixteen-plex dwellings are inconsistent with the values of the neighborhood.

Traffic problems

Thirty-two "townhomes" (apartments) with at least 2 residents each, plus up to 100 children being dropped off and picked up each day, will result in increased traffic problems in the area. While the absolute number of vehicles entering and exiting the complex would be small compared to the 24-hour traffic count, many of the exits and entries will occur in compressed time windows as kids get dropped off and picked up at the start and end of each day. My fear is that these traffic "pressure points" will encourage/force people coming and going to use the back, residential, streets in the neighborhood which would increase dangers for kids and pedestrians, especially given the lack of sidewalks on some adjoining streets, such as "J" street and "H" street.

Just as important is the proposed entrance on 40th street. People will try to turn into and from the south-bound lane on 40th street. That proposed entrance will be blind from the north, as there is a significant rise in 40th street just to the north of the proposed entrance. Accidents will occur, and given the speeding that occurs on 40th coming off of "O" street, the accidents will result in injuries or fatalities.

Not anti-development, just against *bad* development

I recognize that this property is a desire-able and relatively rare in-town parcel. While my first preference would be for each of the existing 6 homes to be re-habilitated and sold for single-family dwellings, I recognize that this may not be deemed feasible economically, and in the end I know that my opinion of what would be best for the neighborhood would surely not be shared by the current owner.

In the neighborhood there are, however, excellent examples of development that was consistent with the current status and values of the neighborhood, and yet put large parcels to good use. Christensen Court, at 38th and "L" Street, and Whispering Pines, at roughly 46th and "A" street are 2 examples. They preserve private ownership (a hallmark of neighborhood stability), are low density (consistent with single-family neighborhoods), and architecturally are not incongruous with the neighborhood. I would support a similar development plan.

Do not repeat the errors of the past

Finally, I would like to remind you of what happened to the Near South neighborhood in the 60's and early 70's, as apartment complexes such as the ones in this proposal were "slipped into" open properties between stately mansions.

Nearly every city of size in the United States has experienced an urban re-birth in the past 15 years, as urban pioneers moved back into old neighborhoods, invested in and rebuilt older houses, and created demand for goods and services in the cities' cores. This process has made those cities better places to live, with broader economic and tax bases, and better amenities, particularly in the urban core.

The "slip-ins" that were allowed in Lincoln's Near South virtually ruined that neighborhood for that kind of coherent urban re-development. Few people want and are willing to invest in rehabilitating a beautiful old house when it sits next to an 8-plex (or 16-plex) apartment complex which is inhabited by rowdy transients or criminals. (I apologize for what may be seen to be a stereotype, and I recognize that many apartment dwellers are law-abiding desire-able neighbors, but we all have seen the Lincoln crime maps, and I stand by the increased probability of problems

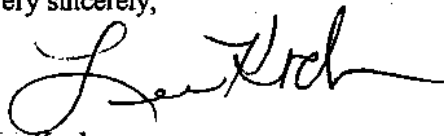
associated with high-density dwellings.) Because of those slip-ins, the Near South will never have the opportunity (that it otherwise would have had) to re-develop, bringing increased property values and taxes, disposable income, and demand for quality-of-life goods and services. Lincoln is permanently poorer because of those old decisions.

I will not claim that the 40th and Randolph area has the same quality of homes in terms of size and architecture as the Near South, but this neighborhood does have a very coherent set of architectural styles, and very broad and committed base of residents who appreciate the neighborhood for what it is (and isn't yet...) While this city can add new sub-divisions, it cannot add more established neighborhoods - and once the existing established neighborhoods are ruined, they cannot be replaced. To allow the construction of tandem I6-pléx dwellings in this neighborhood would be to repeat the same terrible city planning errors that were committed in the 60's.

In summary:

- this proposed development is inconsistent with the quality, values and history of the neighborhood
- it will damage property values and quality of life
- there will be traffic problems that will lead to injuries or death
- the past planning errors committed in the Near South should be avoided here
- I am not against all development, just bad development, and this proposal is an example of bad development.

Very sincerely,



Lee Koch

Owner of Art On Display at 40th and Randolph St.
3821 Steele Ave
Lincoln, NE 68510



CAMPJON@aol.com

06/08/2003 10:27 AM

To: jray@ci.lincoln.ne.us

cc:

Subject: Fwd: Randolph Square Project

RECEIVED
JUN 09 2003
CITY COUNCIL
OFFICE

Joan:

Print this for distribution--perhaps since each Council member was included, not everyone needs to get a copy? What is the most efficient and cost-effective way to handle this communication?

Jon Camp
Lincoln City Council
City Council Office: 441-8793
Constituent representative: Darrell Podany

----- Message from "Deanna Poe" <dpoe@neb.rr.com> on Mon, 2 Jun 2003 20:28:05 -0500 -----

To: "Patte Newman" <pnewman@ci.lincoln.ne.us>, "Jon Camp"
<jcamp@ci.lincoln.ne.us>, "Jonathan Cook" <jcook@ci.lincoln.ne.us>,
"Annette McRoy" <amcroy@ci.lincoln.ne.us>, "Terry Werner"
<twerner@ci.lincoln.ne.us>, "Ken R. Svoboda"
<ksvoboda@ci.lincoln.ne.us>, "Glenn A. Friendt"
<gfriendt@ci.lincoln.ne.us>

Subject Randolph Square Project

Dear City Council:

I am a concerned and very stressed citizen writing to tell you about the proposed building of Randolph Square Project. I realized again today how sad society is when all people think about is turning a beautiful acreage into a parking lot for money. I live at 4045 Randolph directly across for the proposed building site at 4015 and 4040 Randolph. Seven houses were sold in the purchase but only 2 will be torn down and the rest will be will get new plot lines.

I bought my house in 1997 because I loved the neighborhood and I loved attending St. Teresa's Church. My daughter who is 11 has attended school at St. Teresa's since kindergarten. I am single parent and at the time thought I was really lucky to find an affordable house in the neighborhood.

I am now faced with the owner of the property Steve TeSelle along with J.D Burke and associates and some apartment builder by the name of Harold Hiser who I hear has really bad credit and has filed bankruptcy and goes under Conrad Construction wanting to tear down houses and put up Apartments with no garages and a Daycare. Here are my concerns:

Safety: For my daughter walking to and from school

Traffic: Randolph is a very busy street now serving this neighborhood as well as the Eastridge neighborhood for schools and people going downtown to work. St. Teresa's starts at 8:00 so many school children are walking to school during rush hour. With 32 units you are asking for at least 64 more cars that on average come and go at least 3 times a day. Any overflow would pour out on to my side street between 40th, 41st and Randolph. They also proposed adding an entry on 40th street right at a blind spot on the hill. Then there is the Daycare that everyone in the neighborhood is against. We already have 5 commercial daycare's in the area and many home daycare's that do a wonderful job. They first proposed 100 children and I hear they are cutting it back to 70 now. I have a hard time getting out of my driveway now with out the added cars coming from both directions.

Crime:

Upkeep: There has been no mention of onsite managers and no one can come with an answer on who will take care of things such as grass if there is any and garbage that gets scattered.

Historic: They are changing the quaint houses and quiet neighborhood and putting up boxes. If I had wanted a new house or apartment I would have choose a different neighborhood where every house looks the same and is made from really cheap wood and cheap materials.

We have formed a neighborhood association called Witherbee Neighborhood Association and have spoke Steve TeSelle pleading with him not to build and have offered many suggestions to try and save the property. None of which seem to produce enough money for his investment.

I am pleading with you to deny any special permits they are applying for if the planning commission rejects them and they appeal to you. As of last week they had once again withdrawn all of the applications to make more changes but I know they will be filing again soon since they already owe J.D Burke around 75,000. Please don't let someone like Harold Hiser come in and make a buck and then not manage his spending to only file bankruptcy once again. Thank you for your time and consideration. Please help us save our neighborhood!

Sincerely,

Deanna Poe
4045 Randolph St.
Lincoln, NE 68510

RECEIVED
JUN 09 2003
CITY COUNCIL
OFFICE



"Tim and Lisa Voss"
<tvoss@neb.rr.com>
07/30/2003 08:29 AM

To: <plan@ci.lincoln.ne.us>
cc:
Subject: Randolph Square Development

Dear Planning Department,

I am a third generation resident of the Woods Park/Witherbee neighborhood. My grandparents moved here in the late 40's and my grandfather built many of the homes in the 39th and J area. I could have lived anywhere in this city, but I chose this wonderful neighborhood as the place to settle and raise my children. Here are some of the negative impacts I believe the Randolph Square development will have on our neighborhood if it is built as currently proposed :

1. A huge increase in traffic at the corner of Randolph and 40th streets, and on the side streets such as "J" , "H" and Witherbee, among others. With the proposed Runza restaurant also planned for 40th and Randolph, this situation could make this intersection virtually impossible to navigate safely.
2. A huge decrease in safety for the many school children and their parents who use the Randolph/40th Street corridor to walk and ride their bicycles to and from schools. In case you had not looked into this, the following schools all have students who depend on these streets: Randolph Elementary, St. Teresa's Elementary and Middle School, Lefler Middle School, Lincoln High, Pius X High School, Hawthorne School and the Montessori school at 40th and "A" streets. As the parent of two students at St. Teresa's I am personally very concerned about the potential increase in traffic on both Randolph and "J" streets, not to mention the other side streets in the area.
3. The many problems which will be created by a development of such high density. Renters have little stake in the neighborhood where they live (temporarily). How can we be sure the units will be adequately policed by the owners to prevent crime, noise pollution, littering and traffic violations. These developers seem to have no concern whatsoever for what is best for our neighborhood and its inhabitants now. By logical extension, we are not expecting them to care about the neighborhood when the project is done. They will no doubt collect their rents and turn a deaf ear to the complaints of near-by homeowners. I don't anticipate a sudden blossoming of appreciation for the unique character of the area and the concerns of its residents. Do you ?
4. Last, but certainly not least, the full-frontal assault that this development will create on our property values. In addition to destroying the unique character and aesthetically pleasing aspects of this area, this development will virtually destroy the very thing that makes living on "J", or "H" or Witherbee so pleasant and valuable. The quiet, the sense of a tightly-knit community where we know many of our neighbors, above all a sense of pride and responsibility for the neighborhood. These are what attract people to this area. With the noise, constant traffic jams and potential influx of dozens of temporary, transient renters in this highly concentrated area, these advantages disappear. Though everyone I have talked to agrees that this group of properties surrounded by their bizarre-looking fencing need upkeep and that the lots could be better-used, this development is NOT the answer. Something like the Three Pines Court development at 40th and A streets would be ideal.

Thank you for allowing me to voice my concerns. This email may never be read, but I feel better having a chance to express my opinion. Please help us save our neighborhood, and consider our request for rezoning this property.

Sincerely,

Lisa M. Voss
721 So. 33rd St.
Lincoln, NE. 68510



"Sovereign, Josh"
<jsovereign@fnni.com
>

To: "plan@ci.lincoln.ne.us" <plan@ci.lincoln.ne.us>
cc:
Subject: Randolph Square

07/30/2003 09:57 AM

Dear City Planning Department,

I am writing to express my concern against the proposed Randolph Square Development. I live in the neighborhood where the proposed development may be built. My wife and I moved here four years ago to start our family. We now have two small children and we all enjoy our neighbors and neighborhood very much. Our neighbors have similar interest and goals of raising a family in a quiet neighborhood near church and school.

I believe the proposed 32 unit development clashes with the character of this neighborhood of single family homes with people trying to raise a family. Many people experience renting when they are in school but when they want to start a family they try to find a neighborhood that is quiet with neighbors with similar interests. Four years ago we found that neighborhood and enjoy spending time with the other families in the neighborhood, many that have small children. In fact within just a few houses there are 12 homes that have small children or grandchildren that visit often. I see Randolph Square as the thing that many of us tried to move away from.

Please don't let us regret our decisions to move to this quiet neighborhood when the proposed development goes before the Planning Board August 20th

Thank you for considering my views and making Lincoln a better place to live.

Josh Sovereign
402-327-9360
jamscon@aol.com



"Jeff Steffensmeier"
<jsteffen@alltel.net>

08/10/2003 08:05 PM

To: <plan@ci.lincoln.ne.us>
cc:
Subject: Randolph Square Development

To whom it may concern at the Planning Department:

I live in the Witherbee Neighborhood Association at 3353 M Street. I am opposed to such a high density housing project in our neighborhood. I also do not think a 100 occupancy child daycare facility fits into a residential neighborhood.

This type of project would not encourage future owner owned residential living. We do not want the type of apartment development that occurred in the Near South neighborhood.

An excellent example of new high quality residential development in our area is at Christensen Court. These townhomes enhance the beauty of our area. They are pleasing to look at and will make a positive impact on the area for many years. The owners further contribute to the quality of life in this area.

My family and I have only lived in Lincoln for 5 years and chose the older part of town deliberately based on some historical assumptions. Lincoln impressed us as a community that has not forgotten to reinvest in its central core. That the long range planning would continue to encourage development in older neighborhoods that continues to foster single-family ownership.

As you drive through older neighborhoods, you can see the homes that take pride in ownership and invest thousands of dollars into their homes. This continues to keep this older architecture vibrant for future families.

Please think about what type of future we are seeking to encourage by current developments in our neighborhood.

Sincerely
Jeff & Patty Steffensmeier
3353 M Street
Lincoln, NE 68510
477-3722



Machop70@aol.com

08/11/2003 02:24 PM

To: plan@ci.lincoln.ne.us

cc:

Subject: Randolph Square Development

To Whom it May Concern:

I would like to voice my concern over the new Randolph Square Development that is proposed for the corner of 40th and Randolph Street. I recently purchased my first home at 3923 "H" specifically to get into a quiet single family neighborhood and away from the crowding and hustle and bustle of apartment complex/duplex neighborhoods. I think the great majority of residents who moved into this area have done so for the same reasons. Our area offers a great many moderately priced homes that are perfect for families and first time home owners. The area also offers a quiet, family friendly atmosphere where the neighbors know each other, many of them attend the neighborhood church together, and everyone watches out for each other. The neighborhood has been building this atmosphere for some time now and it continues to foster positive changes for all its members. When you drive through our area you can see the neighbors' pride in their homes and their property. I am not sure if my address would be considered as part of the Historic Bungalow District but you can see people have put a lot of work into their homes. When I was in the market to purchase a home I looked at quite a few in this neighborhood. Most of the homes were in the process of being restored in some way, or had already been restored to much of their original condition. The home I purchased holds a lot of the same promise many of the others I looked did and I have also begun the process of restoring its features to as near original condition as I can.

I am worried that this new development will halt most of the positive changes my neighbors have accomplished. I also looked at a good many home in the Near South area, which has roughly the same type of homes in a comparable price range. Although there has been some write-ups in the Lincoln Journal Star about people restoring some of the older homes in the area the pace of restoration is extremely slow and inconsistent. I didn't have the urge to purchase anything around here because the scattered apartment complexes made too much congestion on the blocks and no one who lived adjacent to these complexes, or the homes converted into apartments, took the time and effort needed to beautify their property. There didn't seem to be any neighborhood pressure on each property owner to make their homes better so everyone could benefit. It certainly seems to me that the various apartment complexes have had a detrimental affect on the Near South Area. It is this effect that the Witherbee Neighborhood Association would like to avoid.

I hope the Planning Commission takes these concerns under advisement when the Randolph Square Development permit comes up and votes No on their request for a Special Permit. I also hope you will listen to the current neighbors in our area who signed our petition and vote yes on the change of zone from R4 to R2. Our neighborhood would very much like to preserve the neighborhood character we are working to build and maintain our standard of living.

Thank You,

Jaret Waite
3923 'H' Street



Ohair42@aol.com

To: gczaplewski@ci.lincoln.ne.us

08/11/2003 07:17 PM

cc:

Subject: Proposed Randolph Square Development at 40th & Randolph

As a concern citizen and residential property owner residing in the newly formed Witherbee Neighborhood Association area, I have the following comments to submit to your department and the Planning Commission regarding the proposed Randolph Square development, which is tentatively scheduled to be on the August 20, 2003 Planning Commission Meeting Agenda- 1) This development should not be allowed to be done under a special use permit which the developer has applied for since it would greatly alter the existing residential character of the block which is currently zoned R-4 Residential; 2) the updated Comprehensive Plan shows the number of dwelling units per acre by Traffic Zone for the 40th & Randolph area to be 3 to 5 dwelling units per acre, while the Randolph Square development proposes 32 dwelling units be built on 3.5 acres; 3) a 100 child daycare facility also is being proposed for this 3.5 acre tract which creates even a greater density use and serious neighborhood concerns regarding traffic/pedestrian safety and increased traffic congestion on two already very busy arterial streets; 4) the proposed development is incompatible with other land uses in the same zoning district and doesn't protect and/or enhance the abutting land uses (residential homes) nor protect or enhance the character of the Witherbee Neighborhood Association area; 5) there are a total of 28 residential properties located in the block (40th to 42nd/Randolph to 'J'), of which 71% (20 of the 28) are **owner occupied** and the other 29% not owner occupied (8 properties of which 5 of them are owned by Steve Teselle who is the developer for Randolph Square); 6) Mr. Teselle, who lives at 3875 Smith Street, is an absentee landowner of the property in which he wants to develop at 40th and Randolph and therefore needs to be asked the following questions by Planning Staff and members of the Planning Commission- "Would you want and be in favor of having such a development built within the required 25 foot setback of your property in which you reside as the owner occupant"? "Do you think the proposed density (100 child daycare & 32 dwelling units) of the Randolph Square development if built, will sustain the existing residential character of the neighborhood and enhance the value of the abutting properties"?

The Witherbee Neighborhood Association has also filed a residential change of zone application from R-4 Residential to R-2 Residential for the area from the west side of 37th to the east side of 42nd and the north side of Randolph to the south side of 'J'. Approval of this change of zone would preserve the current development pattern and limit the potential for increasing housing density in an area with a fixed amount of infrastructure. Planning Staff's recommendation for **approval** would also promote the continued use of single-family dwellings, preserve the character of this neighborhood area and encourage maintenance of an older established neighborhood that offers affordable housing for many home buyers.

I would appreciate if these comments could be included with those that others will submit concerning Randolph Square and the Witherbee Neighborhood Association change of zone request.

Respectfully,
Steve Schwab
3510 Woods Ave
Lincoln, NE 68510